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Appl. No.:	10/029,159	Confirmation No.: 5211
Applicant(s):	Douglas Deeds et al.	
Filed:	December 21, 2001	
Art Unit:	3621	
Examiner:	Firmin Backer	
Title:	METHOD AND SYSTEM FOR DELIVERING CONTENT	
	TO AND LOCKING CONTENT IN A USER DEVICE	

Docket No.: 042933/289713
Customer No.: 00826

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APPEAL BRIEF TRANSMITTAL
(PATENT APPLICATION – 37 C.F.R. § 41.37)

1.   Transmitted herewith is the APPEAL BRIEF in this application, with respect to the Notice of Appeal filed on January 25, 2006.

2.   ☐ Applicant claims small entity status.

3.   Pursuant to 37 C.F.R. § 41.20(b)(2), the fee for filing the Appeal Brief is:
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Attorney's Docket No. 042933/289713   <u>PATENT</u>

<div align="center">IN THE UNITED STATES PATENT AND TRADEMARK OFFICE</div>

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<div align="center"><u>**APPEAL BRIEF UNDER 37 CFR § 41.37**</u></div>

This Appeal Brief is filed pursuant to the "Notice of Appeal to the Board of Patent Appeals and Interferences" filed January 25, 2006.

1.   ***Real Party in Interest.***

The real party in interest in this appeal is Nokia Corporation, the assignee of the above-referenced patent application.

2.   ***Related Appeals and Interferences.***

There are no related appeals and/or interferences involving this application or its subject matter.

3.   ***Status of Claims.***

The present appeal involves Claims 21-27 and 33-42, which are presently under a final rejection as set forth by the Official Action mailed December 21, 2005. A pre-appeal request

was submitted on January 25, 2006, but the decision of the panel of Examiners found that Claims

21-27 and 33-42 stand rejected because one or more issues are ripe for appeal. The claims at

issue are set forth in the attached Claims Appendix.

4. *Status of Amendments.*

No amendments have been filed subsequent to the final Official Action of December 21,

2005.

5. *Summary of Claimed Subject Matter.*

In general terms, embodiments of the present invention are directed to locking selected

content in a user device, such as a wireless mobile device, such that the selected content is

repeatedly presented until a locking requirement is met. *See, e.g.*, page 8, lines 7-15, of the

present application. The selected content may take various forms, such as a ring tune or a screen

saver that is presented by being played or displayed, respectively, until the locking requirement

is met. *See, e.g.*, page 6, lines 9-12. The locking requirement can also take various forms, such

as a predefined number of days or a predefined amount of usage (e.g., a predefined number of

instances in which a ring tune is played or a screen saver is displayed). *See, e.g.*, page 8, lines

15-17.

As described in the specification, in one exemplary embodiment, a network based device,

such as delivery server **16**, can present the user of a wireless mobile device with the opportunity

to lock in some selected content in exchange for a reward, such as a discounted movie ticket.

See, e.g., page 2, lines 10-12; and page 8, lines 7-15. In some instances, the user is presented

with several different locking requirements associated with the same selected content. *See, e.g.*,

page 8, lines 7-15. For example, different locking requirements may require the selected content

to be locked in for longer periods of time or to be used more times in return for greater rewards,

such as a more deeply discounted movie ticket. *Id.* The user can then select one of the locking

requirements, and the selected content and associated locking requirement can then be

downloaded from the network based device and stored by the user device. *See, e.g.*, page 9, lines

1-5. Thereafter, the selected content is provided to the user in accordance with the locking

requirement. *See, e.g.,* page 9, lines 10-18. In this regard, the selected content may be repeatedly presented by the user device until the selected locking requirement is met.

For example, in one embodiment of the present invention, a business may offer a movie promotion through a network based device. *See, e.g.,* page 8, lines 7-17. The network based device may offer 50% off of a movie ticket (the "reward") if the user allows a ring tune that is a snippet of a new movie's theme song (the "selected content") to be locked into the user's mobile phone (the "user device"). The offer may require that the movie theme song be locked in as the phone's ring tune for two straight weeks (the "locking requirement") in order for the user to receive the discounted movie ticket. Thus, the selected ring tune would be played in response to every incoming call (i.e., "repeatedly presented") during the next two weeks.

6.   *Grounds of Rejection to be Reviewed on Appeal.*

Claims 21-27 and 33-42 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application Publication No. US 2002/0010698 to Dong Wook Shin, et al. (hereinafter "the Shin publication").

7.   *Argument.*

A.   **Summary of the Shin Publication**

In contrast to the claimed invention, the Shin publication describes a method of securing electronic documents and/or text messages that are transmitted through a network. *See* Shin at ¶¶ 0008-0009. These electronic documents are secured by a locking function that locks the message (i.e., <u>prevents</u> the message from being presented) until some predefined locking condition is satisfied. *See, e.g.,* Shin at FIG. 3C. Exemplary locking conditions include a date on which the electronic document can be opened, a particular reader who can open the electronic document, or questions that a potential reader must answer correctly in order to access the locked electronic document. *See* Shin at ¶ 0023. These locking conditions are chosen by the drafter of the electronic document and prevent the reader from accessing the document unless the locking conditions are satisfied. *See* Shin at ¶ 0024.

B.   Shin does not describe a method wherein the selected content and the locking requirement are provided to the user device in order to permit the selected content to be operated upon pursuant to the locking requirement, as required by independent Claims 21 and 22.

Independent Claim 21 is directed to a method for providing selected content from a network based device to a user device. The network based device receives an indication of the selected content and presents at least one locking requirement associated with the selected content to the user device. In response to the presentation of at least one locking requirement, the network based device receives a selection of at least a first locking requirement from the user device. Thereafter, following selection of the content and at least the first locking requirement, the network based device provides the selected content from the network based device to the user device together with at least the first locking requirement, thereby permitting the selected content to be operated upon pursuant to the first selected locking requirement.

Therefore, independent Claim 21 requires that the selected content be <u>permitted to be operated upon</u> in accordance with the selected locking requirement. Similarly, independent Claim 22 recites the steps of receiving the selected content and at least the first locking requirement at a wireless mobile device and <u>operating upon the selected content</u> in accordance with at least the first selected locking requirement. As described in the specification of the present application the locking requirement of the claimed invention is a requirement for <u>locking in</u> selected content in a user device so that the selected content may be operated upon for a specified period of time, a specified amount of usage, or any other suitable requirement. *See,* *e.g.*, page 8, lines 7-17. The specification provides examples of selected content being operated upon in accordance with such a locking requirement. For example, page 22, lines 17-22, describes how the locking requirement allows "content associated with a business entity to be locked in the user device 12 for a specified period of time or a specified amount of usage. When the user accepts the terms, the business entity is assured that the content will fulfill its promotional or advertising goals for the specified period of time or the specified amount of usage."

In direct contrast to Claims 21 and 22, the Shin publication describes a method of securing electronic documents and/or text messages by providing a locking function that

prevents the electronic document or text message from being operated upon until some condition is satisfied (e.g., the entering of a correct password). Thus, it should be appreciated that this "locking function" term/concept of Shin is very different from the "locking requirement" term/concept of the claimed invention. In particular, the "locking function" term/concept of Shin is specifically designed to prevent the selected content from being "operated upon" as recited by Claims 21 and 22. As such, Applicants respectfully submit that independent Claims 21 and 22, as well as Claims 23-27, 33, and 34 that depend therefrom, are patentably distinct from the teachings of the Shin publication.

C.   Shin does not describe a method wherein the user device that receives the selected content is the same user device that is also presented with and selects a locking requirement, as further required by independent Claims 21 and 22.

In addition to the above-describe distinction, independent Claim 21 further recites that at least one locking requirement is presented to the user device, and a selection of at least the first locking requirement is received at the network based device from the user device such that the selected content and at least the first locking requirement that has been selected are thereafter provided by the network based device to the user device. Thus, the user device to which the network based device eventually downloads the selected content and the selected locking requirement is the same user device at which at least one locking requirement is initially presented and at which a selection of at least the first locking requirement is received. With reference to Shin by contrast, the source of an electronic document (not the recipient) selects a locking condition to be associated with the electronic document prior to downloading or transmitting the electronic document to a recipient. *See* Shin at ¶ 0024. For example, in Shin, the drafter or distributor of an electronic document may decide to password protect an electronic document prior to transmitting the electronic document to a recipient.

Furthermore, in Shin, the user device (the eventual recipient of the selected content) is not presented with a locking function that the user device previously had an option to select prior to the downloading of the electronic message with the selected locking function. In contrast, Shin describes a method where the user device downloads an electronic document that is already associated with a locking function. *See* Shin at ¶ 0023, ¶ 0026, and FIG. 3C. The final Office Action cites the flowchart in FIG. 3A of Shin as showing where the user device selects a locking

function prior to the downloading of the electronic message with the selected locking function. However, Claim 21 of the present application recites that the "user device" is the eventual receiver of the selected content. In contrast, Paragraph 0024 of Shin makes it clear that FIG. 3A describes the actions of the drafter of the electronic document that is to be locked. Specifically, Paragraph 0024 describes step 303 of FIG. 3A as showing the drafter of the electronic document selecting at least one locking method among those provided from the locking management server.

Similar to independent Claim 21, independent Claim 22 recites receiving at least one locking requirement at the wireless mobile device, selecting acceptance of at least a first locking requirement at the wireless mobile device, and then receiving the selected content and storing the selected content at the wireless mobile device following selection of the content and the first locking requirement. As described above, Shin does not teach the presentment of at least one locking requirement at a wireless mobile device and the subsequent acceptance of a first one of the displayed locking requirements by the wireless mobile device to which the selected content is thereafter downloaded and stored. In contrast, in Shin, the locking condition is applied to an electronic document by the drafter of the document prior to transmission to a recipient.

For these additional reasons, Applicants respectfully submit that independent Claims 21 and 22, as well as Claims 23-27, 33, and 34 that depend therefrom, are patentable over the Shin publication.

D.   Shin does not describe a content manager capable of locking selected content into a device so that the selected content is repeatedly presented, as recited by independent Claim 35.

Independent Claim 35 recites a wireless mobile device including a content manager for managing selected content once the selected content is delivered to the wireless mobile device. As recited by the claim, the content manager is capable of: (1) selectably locking the selected content pursuant to a first selected locking requirement such that the selected content is repeatedly presented until the first selected locking requirement is met; (2) determining when the first selected locking requirement is met; and (3) unlocking the selected content when the first selected locking requirement is determined to have been met such that the selected content is no longer required to be repeatedly presented. As described by independent Claim 35, the selected

content is therefore <u>repeatedly presented</u> until the first selected locking requirement is met, at which time the selected content need no longer be repeated. In direct contrast, Shin describes a method of locking an electronic document that prohibits the electronic document from being opened and operated until after the locking condition is met. <u>Thus, independent Claim 35 recites the repeated presentation of the selected content until the first selected locking requirement is met, while Shin describes the prevention of the presentation or other operation of the electronic document until the locking condition is met.</u>

In Shin, if someone tries to improperly access the protected electronic document, the person seeking access may be provided with a guide message such as "please wait" if the document is protected for a specific length of time, or "You are not the right person" if the person enters the wrong name or password or fails a quiz question required to unlock the document. *See* Shin at ¶ 0023. In the Office Actions of December 6, 2004, and July 19, 2005, the Examiner equated the guide message of Shin to the repeated presentation of the selected content of independent Claim 35. However, in contrast to Shin, <u>the mobile device of Claim 35 repeatedly presents the selected content</u> until the first selected locking requirement is met, at which time the selected content is no longer required to be repeated. Since the Office Actions equate the selected content of the present application to the electronic document of Shin, Shin does not describe repeatedly presenting the selected content until the locking requirement is satisfied. In fact, in Shin, the specific purpose of the locking requirement is <u>to prevent display of the selected content</u> (i.e., the electronic document) until the locking requirement is satisfied. Any guide message that is presented before the document is unlocked is not the "selected content" that is locked into wireless mobile device and repeatedly presented, as recited by independent Claim 35.

Therefore, Applicants respectfully submit that independent Claim 35 is patentable over the Shin publication.

E.   Shin does not describe selected content that is "locked in" the user device or "required to be presented" at the user device, as required by independent Claims 36 and 39.

Independent Claim 36 includes a step of presenting at least a first locking requirement associated with the selected content to a user device with the locking requirement defining a

specific period of time or a specified amount of usage for which <u>the content is locked in the user</u> <u>device and is required to be presented</u>. Independent Claim 36 further recites that the selected content and the first locking requirement are provided from a network based device to the user device to permit the selected content to be <u>repeatedly presented until the first selected locking</u> <u>requirement is met</u>. Similarly, independent Claim 39 includes the step of receiving the first locking requirement associated with selected content at a user device with the locking requirement defining a specific period of time or a specific amount of usage for which the content is locked in and required to be presented at the user device. After having accepted the first locking requirement, the selected content is received and stored and thereafter repeatedly presented with the user device until the first selected locking requirement is met.

As described above, Shin does not define a locking requirement in terms of either a specific period of time or a specific amount of usage for which the content is <u>locked in and</u> <u>required to be presented at the user device</u>. Instead, as described by Shin, the electronic document is actually prevented from being accessed by the user device so long as the locking condition is not met. Additionally, as described above with reference to Claim 35, Shin does not teach or suggest the <u>repeated presentation of the selected content</u> until the first selected locking requirement is met, as recited by independent Claims 36 and 39.

Therefore, Applicants respectfully submit that independent Claims 36 and 39, as well as Claims 37, 38, 40, and 41 that depend therefrom, are patentable over the Shin publication.

F.   Shin also does not describe a mobile device including a memory for storing a **plurality of profiles, each profile including an identifier indicative of the use of the locked-** **in selected content, as recited by independent Claim 42.**

Independent Claim 42 is directed to a wireless mobile device that includes a content manager for receiving and managing selected content. In regards to the management of the selected content, the content manager of independent Claim 42 <u>locks in the selected content</u> pursuant to a first locking requirement such that the <u>selected content is repeatedly presented</u> until the first locking requirement is met. As described above with reference to Claim 35, Shin does not teach or suggest the locking in or the repeated presentation of the selected content until the first selected locking requirement is met.

Independent Claim 42 also defines the wireless mobile device to include a memory for storing a plurality of profiles. *See* page 11, line 21 - page 12, line 11. Each profile includes an identifier indicative of the use of the locked in selected content. *See* page 13, lines 12-14; and page 14, lines 5-13. For example, the mobile device may store data in a profile table 300. *See* FIGS. 3A and 3B. The device may include a standard profile, an outdoor profile, and a meeting profile, where each profile includes identifiers/indicators that identify how the mobile device should function when operating in each profile. For example, as illustrated in FIGS. 3A and 3B, each profile 302 may have a tune/vibrate indicator 304 (that indicates whether the device should play a tune or vibrate), a tune identifier 306 (that indicates what tune, if any, should be played), and a volume indicator 308 (that indicates the volume of the tune). *Id*; and *see also* page 11, line 21 - page 12, line 11. When content data is selected and locked into the mobile device, one or more of the identifiers may be changed to be indicative of the locked in selected content. For example, returning to the example of a movie promotion, the tune identifier 306 could be changed to an identifier that indicates a movie theme song that has been locked into the mobile device. *See, e.g.*, page 14, lines 5-13. Shin does not teach or suggest a memory containing profiles, each profile including an identifier indicative of the use of the locked-in selected content, as set forth by independent Claim 42. Instead, in Shin, once the locking condition is satisfied, a user is not limited in the use that can be made of the electronic document.

Therefore, Applicants respectfully submit that independent Claim 42 is patentable over the Shin publication.

G.   **In addition to the above distinctions, Shin does not describe the subject matter recited by dependent Claims 26, 33, 34, 38, and 41.**

In addition to the fact that the Shin publication does not describe the subject matter of the independent claims as discussed above, Shin also does not describe the additional subject matter recited by many of the dependent claims of the present application. In rejecting most of the dependent claims, the Examiner cited the same three figures and four paragraphs as anticipating all of the dependent claims. The Examiner did not provide any guidance as to what specific aspects of Shin he thought anticipated the recitations of the dependent claims. As such, it is difficult for the Applicants to respond to the rejections of the dependent claims in much detail. Applicants, however, submit that at least dependent Claims 26, 33, 34, 38, and 41 are patentable

over the Shin publication for reasons in addition to those described above with regard to the respective independent claims.
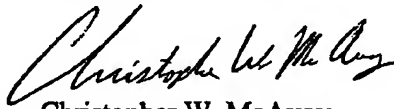
Specifically, Shin does not describe the operation of dispensing a reward to a user, as recited by dependent Claims 26, 38, and 41. As described in the present application, in one exemplary embodiment of the present invention a business may offer a reward to a user if the user selects the business's advertising content and allows the content to be locked in the user's phone. Shin, in contrast, is directed to an electronic document security system and does not in any way describe offering a reward to a receiver of an electronic document. Perhaps the Examiner tried to equate the presentation of the electronic document in Shin to the dispensing of a reward in the present application. Such an interpretation, however, would be in error since the claims of the present application recite the step of dispensing/receiving a reward in addition to the step of presenting/receiving the selected content, and the Examiner already equates the presentation of the electronic document in Shin to the presentation of the selected content in the present application.

Finally, Shin also does not describe wherein the selected content comprises advertising content, as recited by dependent Claims 33 and 34. For these reasons, in addition to the reasons described above with respect to the independent claims, Applicants further submit that dependent Claims 26, 33, 34, 38, and 41 are patentable over the Shin publication.

CONCLUSION

For the above reasons, it is submitted that the rejection of Claims 21-27 and 33-42 is erroneous and reversal of the rejection is respectfully requested. A Claims Appendix containing a copy of claims involved in the appeal, an Evidence Appendix, and a Related Proceedings Appendix are attached.

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Claims Appendix

The claims currently on appeal are as follows:

1-20.   (Canceled)

21.   (Previously Presented) A method at a network based device for providing selected content to a user device, said method comprising:

receiving an indication of selected content;

presenting at least one locking requirement including a first locking requirement associated with the selected content to the user device;

receiving a selection of at least the first locking requirement at the network based device from the user device in response to presenting the at least one locking requirement; and

providing the selected content from the network based device to the user device together with the at least the first locking requirement following selection of the content and at least the first locking requirement to permit the selected content to be operated upon pursuant to the at least the first selected locking requirement.

22.   (Previously Presented) A method at a wireless mobile device for providing selected content, said method comprising:

transmitting an indication of selection of which the plurality of content is to form the selected content;

receiving at least one locking requirement including a first locking requirement associated with the selected content at the wireless mobile device;

selecting acceptance of at least the first locking requirement in response to receiving the at least one locking requirement at the wireless mobile device;

receiving said selected content and storing said selected content at the wireless mobile device following selection of the content and at least the first locking requirement; and

operating upon the selected content in accordance with the at least the first selected locking requirement.

23. (Previously Presented) The method of Claim 22 further comprising the operation, at the wireless mobile device, of determining when the first selected locking requirement is met.

24. (Previously Presented) The method of Claim 23 further comprising the operation subsequent to said operation of determining of unlocking the selected content data to release the selected content out of the first selected locking requirement.

25. (Previously Presented) The method of Claim 23 further comprising the operation of notifying the network based device of determination made during said operation of determining that the first selected locking requirement is met.

26. (Previously Presented) The method of Claim 23 further comprising the operation of dispensing a reward to a user associated with the wireless mobile device subsequent to notifying the network based device during said operation of determining.

27. (Previously Presented) The method of Claim 21 wherein said operations of presenting and selectably providing are performed by sending a message from the network based device that contains the selected content and the at least the first selected locking requirement.

28-32. (Canceled)

33. (Previously Presented) The method of Claim 22 wherein the selected content of the plurality of content comprises advertising content and wherein said method further comprises the operation of displaying the advertising content at the wireless mobile device according to the at least the first selected locking requirement.

34. (Previously Presented) The method of Claim 33 wherein the at least the first selected locking requirement comprises a manner by which to display the advertising content in human perceptible form.

35.   (Previously Presented) In a wireless mobile device operable by a user in a radio communication system, an improvement of apparatus for operating upon selected content selected from a plurality of content stored at a network-based device and delivered to the wireless mobile device, said apparatus comprising:

a content manager embodied at the wireless mobile device, said content manager for managing the selected content once delivered to the wireless mobile device, management of the selected content provided by said content manager comprising selectably locking the selected content pursuant to a first selected locking requirement such that the selected content is repeatedly presented until the first selected locking requirement is met, determining when the first selected locking requirement is met, and unlocking the selected content when the first selected locking requirement is determined to have been met such that the selected content is no longer required to be repeatedly presented.

36.   (Previously Presented) A method for delivering selected content said method comprising:

receiving an indication of selected content;

presenting at least a first locking requirement associated with the selected content to a user device wherein said locking requirement defines a specific period of time or a specified amount of usage for which the content is locked in at the user device and required to be presented; and

providing the selected content from a network based device to the user device together with the at least first selected locking requirement to permit the selected content to be repeatedly presented until the at least the first selected locking requirement is met.

37.   (Previously Presented) The method of Claim 36 further comprising:

receiving an indication of said at least first selected locking requirement having been met.

38.   (Previously Presented) The method as in Claim 37 further comprising:

providing a reward in response to said indication.

39.   (Previously Presented) A method of using selected content said method comprising:

transmitting an indication of selected content;

receiving at least a first locking requirement associated with the selected content at a user device, wherein said locking requirement defines a specific period of time or a specified amount of usage for which the content is locked in at the user device and required to be presented;

selecting acceptance of the at least the first selected locking requirement;

receiving said selected content and storing said selected content; and

repeatedly presenting the selected content with the user device until the at least the first selected locking requirement is met.

40.   (Previously Presented) The method of Claim 38 further comprising:

the operation of determining when the at least the first selected locking requirement is met;

the operation of unlocking the selected content data to release the selected content out of the first selected locking requirement having been met.

41   (Previously Presented) A method as in Claim 39 further comprising:

receiving an indication of a reward.

42.   (Previously Presented) A wireless mobile device for operating upon selected content said device comprising:

a content manager for receiving and managing selected content, wherein said management comprises locking in said selected content pursuant to a first locking requirement such that the selected content is repeatedly presented until the first locking requirement is met; and

a memory for storing a plurality of profiles wherein each profile comprises an identifier indicative of the use of said locked in selected content.

Evidence Appendix

No additional evidence is provided.

Related Proceedings Appendix

There are no related proceedings.